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ONTARIO OWNERSHIP REVIEW PROGRAM

ADMINISTRATION
GUIDE



Ontario
Ministry of
Housing



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ONTARIO
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GUIDE



Ontario
Ministry of
Housing

Community
Renewal
Branch,
August
1976

Hon. John R. Rhodes, Minister
Donald A. Crosbie, Deputy Minister



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I. Background

Since financial aid under the Urban Renewal Program was terminated in the fall of 1968, there has been no governmental program available in Ontario to assist municipal efforts to revitalize their downtown core areas.

In response to requests from both the public and private sectors for government help to stimulate downtown revitalization in Ontario, the Provincial Government commissioned a study of the 1964-68 renewal program and an assessment of the need for downtown revitalization in Ontario to determine if public aid was necessary. The report, entitled "Revitalizing Ontario's Downtowns", was completed in 1975 and revealed the value to municipalities of the aid received under the 1964-68 program, concluding that some form of public assistance was necessary to help smaller and medium-sized communities.

Subsequently, the Provincial Government developed the Ontario Downtown Revitalization Program. This Program is designed to help strategic renewal in downtown core areas and thereby begin to arrest decline and restore confidence in these cores. Through 1979, financial allocations will be made under this Program for acceptable municipal projects.

The purpose of this document is to provide detailed information on the operation and administration of the Ontario Downtown Revitalization Program. The implementation procedures have been developed in consultation with municipal staff nominated by the Municipal Liaison Committee and private sector representatives.

II. Objectives of the Program

- To revitalize core areas in smaller and medium-sized Ontario municipalities with a maximum population of 125,000 by providing Provincial financial assistance, at favourable terms, where the need for provincial assistance can be justified and the proposed renewal is in accordance with provincial policies.
- To stabilize or improve property and business tax bases within these downtown areas.
- To make more effective use of existing municipal infrastructure in downtown areas.
- To create a viable role for the downtown.
- To finance specific revitalization proposals in downtown areas which will, in turn, stimulate the implementation of the remainder of the municipality's Official Plan.
- To replace non-viable commercial, industrial and residential land uses with new investments and to encourage continued maintenance of existing viable enterprises within the downtown area.
- To sustain and/or improve social, cultural and economic facilities and opportunities within downtown areas.

III. Program Features

There are four basic features in this Program:

(1) Planning

Municipalities must clearly establish the role of the downtown in relation to other areas of the community in their approved Official Plan. The development of all plans and proposals, however, will be a municipal responsibility and, as such, is not an eligible cost under this Program.

(2) The Nature of Provincial Funding

The Ontario Downtown Revitalization Program does not provide open ended funding. Financial assistance is committed on an annual basis for the implementation of projects in downtown cores where there is clear evidence of sluggish private sector renewal activity.

(3) Local Commitment to the Project

A strong commitment by municipal council and positive local public response are two essential requirements prior to any provincial financial participation.

(4) Project Implementation

Any approved municipal downtown revitalization project must be capable of being implemented within five years of provincial approval.

IV. Program Outline:

(A) Provincial Funding to Municipalities

The Province will provide assistance in the form of partially recoverable loans up to a maximum of 2/3 of the approved cost of a municipal downtown revitalization project. Such a project would be expected to generate additional revenue to the municipality in the form of taxes and/or rents. In addition, the project must be a development which acts as a "seeding" element for other complementary downtown improvements.

Eligible costs include such items as:

- acquisition and/or clearance of land for a revitalization project including relocation costs of residential tenants if any;
- acquisition and rehabilitation of an existing key anchor building;
- installation of a public open or covered mall, transitway or semi-mall;
- improvement, relocation and addition to ancillary services as water, sewers and/or roads where such improvement will result in revitalization.

Municipal administrative costs relating to the implementation of the approved downtown revitalization project may be included in the total approved cost of such a project. There may be some limit proposed regarding the maximum eligible amount of these costs.

The terms and conditions of the provincial financial assistance and its subsequent partial recovery will be contained in all executed provincial-municipal enabling agreements under Section 24 of The Planning Act (See Appendix B).

(B) Recovery of Provincial Funding

The total anticipated Provincial recovery under this Program is limited to 110% of the initial Provincial 2/3 contribution towards the implementation of a downtown revitalization project. This would be accomplished through any applicable combination of the following four terms of recovery:

1. From the disposal of any acquired and/or cleared land and/or buildings for a downtown revitalization project through sale or lease: 2/3 of such recovery will go to the Province and 1/3 will remain with the municipality;
2. From sharing in contingent income (see Section IV(I)) resulting to the project developer from percentage-of-sale lease contracts or short term renewable contracts: 2/3 of such a recovery will go to the Province and 1/3 will remain with the municipality;
3. From leasing space in the case of malls or semi-malls: 2/3 of such a recovery will go to the Province and 1/3 will remain with the municipality;
4. From property tax increments (this will apply at the present time only to privately owned properties): If and when the downtown revitalization project results in additional tax revenue to a municipality, such new tax revenue shall be shared 1/3 by the Province and 2/3 by the municipality only until the total provincial recovery of 110% is achieved.

The formula for calculating such a tax increment is as follows:

The local commercial mill rate for general municipal purpose during the years in which the provincial recovery remains outstanding shall be multiplied by the increase in business and realty assessment of the downtown revitalization project.

For municipalities within a regional government, the commercial mill rate as levied on commercial properties by the area municipality excluding the regional levy will be used.

It must be stressed that the tax increment formula does not involve any adjustment of business and realty assessment but rather is to be employed exclusively for the determination of cash value of such a provincial recovery when it is applicable.

There is no fixed loan recovery period for the provincial 110% because these repayments are all contingent upon the revitalization project's success in creating additional revenue for the municipality.

(C) Municipal Eligibility Criteria

To qualify for assistance under the Ontario Downtown Revitalization Program, a municipality must meet the following criteria:

- (i) have a maximum population of 125,000 as of the date of the municipality's formal application to the Ministry of Housing for project funding;
- (ii) have an approved Official Plan with policies concerning the downtown;
- (iii) have a property maintenance and occupancy standards by-law applicable to commercial and residential buildings and being administered effectively;
- (iv) have municipal council commitment and public support for the revitalization of the downtown;
- (v) demonstrate financial and administrative resources;
- (vi) have a downtown revitalization project proposal capable of being completed within five years of the provincial financial commitment to the project;
- (vii) the proposed revitalization is in accordance with provincial policies.

(D) Official Plan

The municipality's approved Official Plan must contain specific policies applying to the development of its downtown core area. Such policies should include:

- (i) The description of the area to function as the downtown;
- (ii) Precise statements of the role and function of the downtown within the local and regional contexts and specific policies and objectives to guide local decision making in this defined role. This may include the proposed arrangement of functions in the downtown area, appropriate land uses and/or a design plan;
- (iii) Policy concerning housing in the downtown area, where applicable;
- (iv) Transportation policies including pedestrian circulation, parking and transit routes;
- (v) Policy outlining general improvement standards for existing property and the preservation of any unique historical or architecturally significant buildings within the downtown where applicable;
- (vi) Policy concerning mixed commercial and residential developments in the downtown area.

(E) Downtown Revitalization Project Proposal

This proposal must be developed according to the basic requirements for a redevelopment plan under Section 22 of The Planning Act. (See Appendix B). The proposal must include:

- (i) a statement of goals and objectives of the project including its conformity to the approved Official Plan and listing specific private sector efforts anticipated from the proposed project in the remainder of the downtown;
- (ii) location and extent of the proposal in terms of:
 - (a) physical boundaries of the project site;
 - (b) proposed land use;
 - (c) proposed servicing, transportation improvements, including parking, public transit, road widening etc.;
 - (d) any relocation costs for residential tenants;
- (iii) anticipated cost and timing of project implementation (estimates should provide for projected inflation and some contingencies);
- (iv) anticipated provincial contribution and its subsequent recovery (this should include the identification of the **loan recovery land" for the purposes of calculating tax increments where applicable);
- (v) municipal project management strategy for the implementation of the project;

**loan recovery land" means that land from which the increase in municipal taxes is to be considered for the retirement of the provincial loan under this Program's recovery formula (see Section IV(B)).

(F) Municipal Application for Provincial Funding

The municipality's application for funding under the Ontario Downtown Revitalization Program must include the following:

- (i) A copy of the municipal council resolution requesting provincial funding under Section 24 of The Planning Act;
- (ii) A statement that the downtown revitalization proposal is in conformity with the municipality's approved Official Plan. A copy of the approved Official Plan should be submitted together with any Official Plan amendments that have been necessary to provide for the anticipated land use changes;
- (iii) The actual downtown revitalization project proposal (see Section IV(E));
- (iv) Proof of the municipality's financial capability to meet its share of the project's costs and that its financing, debenturing, etc. has been discussed with the Ontario Municipal Board, the Municipal Finance Branch of the Ministry of Treasury, Economics and Intergovernmental Affairs and the regional municipality, where applicable;
- (v) Evidence of the positive response of local businessmen and other affected citizens involved during the development of the project proposal;
- (vi) Supporting data for this project proposal including:
 - (a) market area analysis of the downtown;
 - (b) rationale for the project site;
 - (c) structural ratings of buildings;
 - (d) circulation problems;
 - (e) the need for this project.

(G) Municipal Selection & Provincial Funding Criteria

The municipal applications for assistance will be reviewed annually. The requests will be evaluated by the Ministry of Housing, discussed with the technical staff of the Municipal Liaison Committee and subsequently, where recommended, approved by the Minister of Housing.

Basic criteria to be followed during this review:

- (i) Municipal need for the project;
- (ii) Viability of the specific project proposal;
- (iii) Degree of municipal council commitment and local response to the project;
- (iv) Municipal administrative and financial capabilities;
- (v) Conformity with provincial policies;
- (vi) Timing of the project's implementation;
- (vii) Regional support for the project, where applicable.

(H) Municipal Project Management

This program is designed for municipalities with a maximum population of 125,000. Often such municipalities lack the administrative resources that a program of this kind demands. The lack of such resources at the time of initial application would not jeopardize the municipality's eligibility.

Nevertheless, the Province requires assurances that the municipality applying for aid has the necessary administrative capability prior to any commitment of provincial funds.

The municipal application for funding must therefore include a description of the internal administrative resources which would be applied to the management of the local project, and a description of any additional resources which may be required to carry out the program. Some of the municipal costs may be eligible for provincial funding as part of the total approved project costs. Apart from the assistance normally available to the municipality from the Province and regional staff (where applicable), additional support may have to be acquired through consultants or contract staff.

(I) Formula for the Determination of Contingent Income from the Project

The concept of contingent income arises from commercial practices that are commonly associated with the leasing of retail or office space. Many municipalities have included such terms in their agreements with some developers, particularly during the former Urban Renewal Program of 1964-68 (ie. Sudbury, Thunder Bay).

It is customary for a developer to write percentage-of-sale lease contracts with retail tenants - that is, the tenant will pay an annual rent that is the greater of a fixed minimum sum or a certain percentage of sales volume.

For site acquisition or site lease purposes, the negotiation by the municipality of the amount to be paid by the developer revolves around his aggregate minimum income stream - that is, the sum of the individual fixed minimum rentals from his tenants. However, if the project matures and is successful, then the developer will receive extra income each year through the application of the percentage-of-sales clause.

Since this extra income did not enter into the calculations determining the acquisition cost or rental value of the project site, it is only reasonable that some portion of the extra income should be paid over to the public sponsors of the project. In effect, it is an annual adjustment of the land value of the

site as determined by actual market experience. It has now become customary for the developer to remit approximately 20% of such extra income to government sponsors of the project on an annual basis and to maintain this obligation for a specific number of years. These terms would be outlined in the contract between the developer and the municipality.

In the case of office space, except for a major tenant, there is a trend to short-term leases that are renewable at higher rental levels. The rental income increases from such tenancies have likewise been deemed as a future contingent income to the developer and, in a similar way, approximately 20% of such increased receipts have been made payable to government sponsors annually.

In the case of a conversion of a former street segment into a permanent mall where there is a leasing of the former street area to operators of small shops or where there is land rental for any forward expansion of existing stores onto the street area, it is likely most of the leases will contain percentage-of-sales clauses and once again contingent income will undoubtedly result.

Thus, contingent income to government sponsors is a share of the percentage-of-sales income received by the developer because such clauses are incorporated in most retail leases. It can also be a share of the rental increases received by the developer in the case of short-term fixed rent leases for some office tenants.

APPENDIX A

RATIONALE FOR DOWNTOWN REVITALIZATION

Municipal downtown revitalization efforts must be consistent with their approved local Official Plans to participate in the Ontario Downtown Revitalization Program.

In a number of centres, the downtown may have lost its historical function as the principal retail area in that community. That function has been taken over, in many instances, by a large shopping centre wthin the community or its proximity. In other instances, a town has been submerged by a neighbouring urban area and the prime retail trade has been siphoned off to more attractive retail areas, such as regional shopping centres or the downtowns of larger nearby communities. In some instances, the downtown is not centrally located in the community or has some natural or man-made barriers (ravines, slopes, rail tracks, canal) which inhibits access, expansion or redevelopment in the downtown.

As a result, significant retail outlets such as department stores, large discounters and major food stores move out of the downtown to more favourable locations. Vacancies are created and while the remaining businesses together with other services and community facilities may be quite viable, uncertainties are created by this significant exodus.

The overall need in municipalities that have lost the prime retail function is for the downtown to evolve for other uses while still retaining its identity as the focal point of the

community. In effect, these downtowns have lost their prime function and are unlikely to recover it. Instead, they must be helped to develop another role. While the nature of that role will vary from one municipality to another, there are many alternatives including the following:

- secondary retail and services including stores serving the local area around the downtown, small specialized shops serving a broader area, and general services such as legal, medical and financial;
- community facilities and services such as cultural and recreational centres;
- institutional uses such as civic government, judicial and educational;
- residential uses, including both special purposes and subsidized as well as open market housing.

These potential alternative uses are of course not mutually exclusive. In fact, many are complementary.

Apart from those in need of a change in role, the principal downtown function in small and medium-sized municipalities has been retail.

The downtown may have been diminished in quality and strength by factors substantially beyond its control. Not only might there be the competition of new shopping, office and hotel facilities, but retailing in particular is constantly undergoing change and evolution. Witness the growing popularity of larger store units that have introduced warehousing technology

into their operations. On the other hand, the downtown area is often inhibited in reacting to the new pressures because of a high number of individual land ownership and diversity of objectives. These factors and such other features as relative comfort, convenience, attractiveness, ease of access and parking, must be assessed from the point of view of measuring the downtown marketing or trading problem. This work should then become the basis for developing a conceptual image of what can be done to overcome the trading problem.

In this regard, it is most useful to secure data on the productivity factors in downtown store, hotel and office operations and to compare this experience with other parts of the municipality or indeed in other municipalities entirely. This type of information provides a bench mark in making comparative judgments about the deficiency or adequacy of the downtown trading efforts.

The object of the downtown revitalization project is to recapture social and economic values so that this important sector of the city finds a balance with other parts of the community in the provision of goods, services, entertainment, etc. It will attain this objective if the project can restore visiting and shopping habits in a new and higher magnitude.

Eventually decisions will have to be made on the nature of the downtown. Does the community contemplate site acquisition and new construction? Does it propose a street mall? Does it merely suggest a higher level of municipal services? Does it propose a different function to the downtown other than the

historical retail function?

Through the Ontario Downtown Revitalization Program, the Provincial Government intends to encourage municipalities to focus more attention on their downtown cores and to assist financially municipal efforts to revitalize and upgrade these core areas.

APPENDIX B

22.--(1) In this section,

(a) "redevelopment" means the planning or replanning, design or redesign, resubdivision, clearance, development, reconstruction and rehabilitation, or any of them, of a redevelopment area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary;

(b) "redevelopment area" means an area within a municipality, the redevelopment of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings, or for any other reason;

(c) "redevelopment plan" means a general scheme, including supporting maps and texts, approved by the Minister for the redevelopment area. R.S.O. 1970, c. 349, s. 22(1); 1973, c. 168, s. 5(1), part.

(2) The council of a municipality that has an official plan in respect of land use may, with the approval of the Minister, by by-law designate the whole or any part of an area covered by such an official plan as a redevelopment area, and the redevelopment area shall not be altered or dissolved without the approval of the Minister.

(3) When a by-law has been passed and approved under subsection 2, the municipality, with the approval of the Minister, may,

- (a) acquire land within the redevelopment area;
- (b) hold land acquired before or after the passing of the by-law within the redevelopment area; and
- (c) clear, grade or otherwise prepare the land for redevelopment. R.S.O. 1970, c. 349, s. 22(2, 3).

(4) If, at any time before a redevelopment plan for the redevelopment area has been approved by the Minister, the Minister is not satisfied with the progress made by the municipality in acquiring land within the redevelopment area or in preparing a redevelopment plan, he may withdraw his approval under subsections 2 and 3 and thereupon the by-law designating the redevelopment area ceases to have effect and the redevelopment area ceases to exist. R.S.O. 1970, c. 349, s. 22(4); 1973, c. 168, s. 5(1), part.

(5) When a by-law has been passed and approved under subsection 2, the council, with the approval of the Minister, may by by-law adopt a redevelopment plan for the redevelopment area. R.S.O. 1970, c. 349, s. 22(5); 1973, c. 168, s.5(1), part.

(6) No redevelopment plan shall be approved by the Minister unless it conforms with the official plan. R.S.O. 1970, c. 349, s. 22(6); 1973, c.168, s.5(1), part.

(7) A redevelopment plan adopted and approved under subsection 5, may be amended by by-law with the approval of the Minister. R.S.O. 1970, c. 349, s. 22(7); 1973, c. 168, s. 5(1), part.

(8) For the purpose of carrying out the redevelopment plan, the municipality, with the approval of the Minister, may,

- (a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the redevelopment area in conformity with the redevelopment plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;
- (b) sell, lease or otherwise dispose of any land acquired or held by it in the redevelopment area to any person or governmental authority for use in conformity with the redevelopment plan. R.S.O. 1970, c. 349, s. 22(8).

(8a) For the purpose of carrying out the redevelopment plan, the municipality may make grants or loans to the registered owners or assessed owners of lands and buildings within the redevelopment area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the redevelopment plan.

(8b) The provisions of subsections 2 and 3 of section 37 apply mutatis mutandis to any loan made under subsection 8a. 1973, c. 168, s. 5(2).

(9) Until a by-law or amending by-law passed under section 35 after the adoption of the redevelopment plan is in force in the redevelopment area, no land acquired, and no buildings constructed, by the municipality in the redevelopment area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of agrees with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the redevelopment plan until such a by-law or amending by-law is in force; but the municipality may, with the approval of the Minister, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the redevelopment plan, for a term of not more than three years at any one time.

(10) Notwithstanding subsection 1 of section 288 of The Municipal Act, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides.
R.S.O. 1970, c. 349, s. 22(9, 10).

24. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the redevelopment of a redevelopment area as defined in section 22, including the carrying out of studies for the purpose of selecting areas for redevelopment. R.S.O. 1970, c. 349, s. 24; 1974, c. 53, s. 3.

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